

intend to devote to health care in this Congress. I was disappointed that—despite his repeated promises to allow the Senate to consider the House-passed stem cells bill—Senator FRIST didn't consider this issue important enough to bring to the floor and that parliamentary tactics were used to deny our efforts to bring this forward.

On May 10, prior to the conclusion of Health Week, my friend, the distinguished majority leader, Dr. Frist, stated:

The issue of stem cells is a very important issue. . . . I am very committed to addressing that particular issue. . . . The interest in stem cells will be debated in the future, at a time that is mutually set by the Democratic leadership working with the Republican leadership.

The one-year anniversary of the date the House of Representatives passed H.R. 810, the Stem Cell Research Enhancement Act, is May 24, exactly 1 week from tomorrow.

The bill would offer hope to millions of Americans and their families. Why are we waiting so long to simply vote?

If the distinguished majority leader agreed that this is "a very important issue," then I hope he will keep this issue moving forward and vote on it immediately and schedule a vote on the House-passed bill.

EXECUTIVE CALENDAR

Mr. REID. Mr. President, finally, we are going to momentarily take up the issue of the circuit court judge, and proceed to the consideration of the nomination of Milan D. Smith, Jr., of California to be a U.S. circuit judge for the Ninth Circuit. That is a circuit which Nevada is in and a big, powerful circuit. This is an exemplary judge-to-be.

Just to mention a few names, such as Wallace, Wallace is the first person who has gotten the "nonqualified" rating, but yet he is going to be brought forward, I am told. Boyle, a man who is steeped in controversy, has been reversed 165 times, has ethical problems.

Let's go to the Milan Smiths. There are many qualified Republicans who I hope meet the standard following the Constitution and who are not controversial but are good people. Some are lawyers and some are judges elevated to a higher position. Let us move to those kinds of people. And there is no better example of that than the judge we are going to vote on in just a few minutes, Milan Smith.

I compliment the President for sending him to us.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I ask unanimous consent that at noon today the Senate proceed to a vote in relation to the Isakson amendment, No. 3961, to be followed immediately by a vote in relation to the Salazar trigger

amendment, which is at the desk; provided further that no second degrees be in order to either amendment prior to the votes and that all time after the judicial nomination vote and noon be equally divided in the usual form.

Mrs. BOXER. Mr. President, reserving the right to object—I shall not—Senator FEINSTEIN and I are in favor of the distinguished nominee of the Ninth Circuit. We ask to have an additional 5 minutes for debate so that the result would be 10 minutes on either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF MILAN D. SMITH, JR. TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session for consideration of Executive Calendar No. 625, which the clerk will report.

The legislative clerk read the nomination of Milan D. Smith, Jr., of California, to be U.S. Circuit Judge for the Ninth Circuit.

Mr. SPECTER. Mr. President, I have sought recognition to urge my colleagues to vote in support of the nomination of Milan D. Smith, Jr., for the U.S. Court of Appeals for the Ninth Circuit.

The Judiciary Committee has held a hearing on Mr. Smith, and we recommend him to our colleagues.

He was a graduate of Brigham Young University, cum laude, in 1966, and he has a law degree from the University of Chicago Law School in 1969.

He has had a distinguished career in the practice of law. After law school, he joined the international law firm of O'Melveny & Myers.

In 1972, Mr. Smith formed his own firm, Smith Crane Robinson & Parker, one of Southern California's premier law firms specializing in complex transactions.

Mr. Smith has served in public services. In 1988, he served as Commissioner of the California Fair Employment and Housing Commission where he remained until 1991.

The American Bar Association gave Mr. Smith a "substantial majority well qualified" and a "minority qualified" rating.

Beyond these excellent credentials, he comes with a strong recommendation from somebody who knows him very well, and that is our distinguished colleague, Senator GORDON SMITH from Oregon.

I am pleased at this time to yield the floor either to Senator SMITH or to the senior Senator from California.

The PRESIDING OFFICER. Under the previous order, there will be 5 minutes each to the Senators from California and 5 minutes to the Senator from Oregon, and 5 minutes to the Senator from Pennsylvania.

The Senator from California is recognized.

Mrs. FEINSTEIN. Thank you very much.

Mr. President, I am very pleased to be here as a member of the Judiciary Committee and as a Californian to indicate my support for the confirmation of Milan Smith to the Ninth Circuit Court of Appeals. It is a fine occasion to be able to come here and represent that we have a very competent man to become an appellate court judge.

Mr. Smith has a long and distinguished legal career in our State. The chairman of the committee pointed out some of this. After graduating from the University of Chicago Law School in 1969, Milan Smith moved to Los Angeles where he has been an important part of the legal community ever since.

Mr. Smith founded the law firm known as Smith Crane Robinson & Parker in 1972, and over the last 34 years with Smith Crane Robinson & Parker he has engaged in a wide-ranging legal practice in business and real estate law.

After reviewing his extensive record, a majority of the American Bar Association rated him "well qualified" to serve as a judge of the Ninth Circuit Court of Appeals.

He has demonstrated an impressive and enduring commitment to serving the public, from presiding over the Governing Board of the Los Angeles State Building Authority to acting as vice chairman of Ettie Lee Homes for Youth.

As many of you know, Milan Smith is the older brother of our esteemed colleague, Senator GORDON SMITH. I know the Senator from Idaho was just talking to Senator SMITH and saying: Isn't it nice that California is getting a Californian.

We are having a little tussle over another judge which the Senator from Idaho believes should be an Idaho judge, and the Senators from California believe should be a California judge. So that issue has not yet to be joined, but it certainly will.

Mr. CRAIG. Mr. President, will the Senator yield only for a moment?

Mrs. FEINSTEIN. Certainly.

Mr. CRAIG. It is important to recognize that we are getting the Smith from California, and we are asking that we get a Smith from Idaho.

Mrs. FEINSTEIN. California would prefer having two Smiths. But we will talk about that another day.

The Smiths' maternal grandfather, Jesse Udall, was the chief justice of the Arizona Supreme Court. So Milan Smith stands poised to follow family precedent in serving on one of our Nation's highest courts.

I congratulate him on this nomination. I urge all of my colleagues to vote

for him. I say to his younger brother, who is sitting here in the Chamber, that it is a wonderful day for both Senator BOXER and for me to be able to see you so happy. I know what it means to you and how great it is to have such a fine legal mind in your family. We offer you our best congratulations, as well.

Thank you very much, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, this is a special day for all of us who are on the floor presently because this date has been coming, in my opinion, for far too long. We could have done this 4 years ago, but sometimes it takes a while for good things to happen.

We will not look back, we will look ahead.

I say to my colleague, Senator FEINSTEIN, that we are very fortunate because we worked hard to set up a system for our district court nominees which is working beautifully. We don't have rancor in California over judges—we really don't.

This nomination of Milan Smith is also an opportunity to bring everyone together around a fine man, someone who will be, I believe, a very fine judge. Why? Because Mr. Smith is highly respected by those who know him and know his work. I am confident he will discharge his responsibilities with dignity, integrity, and intelligence.

After law school, Mr. Smith joined the firm of O'Melveny & Myers and later started his own law firm where he is the managing partner. His work in the private sector has given him a wealth of experience and has earned him respect from his peers.

Mr. Smith's career goes beyond the private practice of law. He has dedicated a significant amount of time and energy to public service, as well. In 1984, then-Governor Deukmejian appointed Mr. Smith to the governing board of the Los Angeles Service Building Authority where he served as president until 1992. Since then, he has acted as the Authority's general counsel.

He also was appointed as a member of the California Fair Employment and Housing Commission. He joined the Fair Employment and Housing Commission in 1988 and worked for the next 3 years to protect the rights of the disadvantaged. It says a lot about Milan Smith. This was something he wanted to do: protect the rights of others who are less fortunate than he.

During that tenure, Mr. Smith worked with legislators to reverse a Supreme Court of California decision limiting the commission's power to reward and collect damages for victims of discrimination. Because of Mr. Smith's hard work, passion, and compassion, the California Legislature passed a bill restoring the commission's authority to award damages to victims of discrimination.

When then-Governor Wilson vetoed the bill, Mr. Smith resigned in protest.

We all know a lot of fine people, but it takes guts to stand up and say: I submit my resignation. That shows courage and independence of mind. Here is Milan Smith, standing up to a Governor of the same political party. That is hard to do. I am sure it was painful. I am sure it was terrible. But he did it.

In his resignation letter, Mr. Smith said:

Despite my generally conservative political views, I've come to know much more of the sexual harassment, bigotry and mean spiritedness abroad in the land. To continue to sit on the FEHC when we can do nothing to fairly compensate genuine victims of unlawful sexual harassment, for example, would be unconscionable to me.

Again, those words are eloquent. They are courageous. They show the kind of leadership we need in a judge. We need someone who is fair, someone who truly understands the rights of all Americans, and certainly of all Californians. Mr. Smith gained my profound respect by refusing to sit quietly in the face of what he believed to be injustice. It gives me confidence that as judges sit around and discuss cases that have come before them, he will be motivated by a fierce sense of independence. He will not fear standing up and will be counted when the moment comes.

I am absolutely thrilled about this nomination. The Ninth Circuit will benefit greatly with the addition of Milan Smith. I strongly support his nomination. I had written a letter in favor of this nominee 4, maybe more, 5 years ago. This is a wonderful day for me, personally. I know Senator FEINSTEIN feels that way. My colleague feels that way, and I think most of our colleagues feel this way. It shows we can reach across party lines and come to a point where we can compromise. I am sure Mr. Smith isn't going to do everything I want or everything that Senator FRIST wants, but this is a wonderful choice today.

I yield the floor.

The PRESIDING OFFICER. The proud Senator from Oregon.

Mr. SMITH. Mr. President, it is an honor to be here today, a special day for me, I know for my brother, and all of our family.

Let me begin my remarks by expressing to Senator FEINSTEIN and Senator BOXER my heart felt appreciation for their kind words about my big brother. Let me tell them what a pleasure it has been to work with them on coming to this hour in which the Senate will vote on his confirmation.

I would be remiss if I also did not give special thanks to Senator FRIST and Senator REID, the leaders of this Senate, for their courtesy to me in making this moment possible. Also, to Senator SPECTER and Senator LEAHY, Senator HATCH who chaired the hearing for my brother, all have been his champions, as well, in this very difficult process.

Finally, most profoundly I thank President Bush for his confidence in my brother, for his courtesy to my

family, and to all of his staff, specifically Harriet Miers, who have been wonderful throughout this journey. I am profoundly thankful to them.

I have been in this Senate now for a decade. There are times when I feel a certain electricity, a certain excitement to be here. As I reflect upon my memories of service and the hundreds of votes I have cast, some stand out more than others. But those that stand out most for me are those occasions when we watch the operation of the Constitution of the United States.

This is one of those moments. Those special times are when the branches of our Government come together and we watch the Constitution literally in operation.

What I am talking about in a broader sense is the rule of law. The rule of law stands in great contrast to the rule of man. The rule of man has been responsible for much of the blood and carnage and horror on this Earth. But it is the rule of law, however imperfect it is, to which we are all bound and to which we are all obligated to give obedience. The rule of law—equal protection, due process—involves principles which, fortunately, we in America are able to take for granted in large measure but which are at the center of a good and decent society that the American people have created in this country.

Today we are watching the three articles of the Constitution in play. Article I establishes the Congress, specifically, the Senate, charged with providing advice and consent on nominations to the courts. Article II, the President has nominated Milan D. Smith, Jr., for this position on the Ninth Circuit. Article III is about the court's responsibility in dispensing equal protection and due process of law. This is one of those moments when these three branches of Government intersect in the Senate.

For me, it is a very special moment, not just because of my responsibilities as a Senator, my understanding of the Constitution, but because it is a profoundly proud moment for my family.

I could speak about my brother in many contexts. My colleagues from California have done that already. I could speak of our mother, Jessica Udall Smith, who is the descendent of David King Udall, who is one of the drafters of the Arizona State Constitution. I could speak of our grandfather, Jesse Udall, who was the chief justice of the Arizona Supreme Court for many decades. I could certainly speak of the heritage we received from our father, Milan D. Smith, and his service in the Eisenhower administration, his many discussions with us about politics, and the importance of public service.

What I could also speak about is Milan's preparation. His academic credentials are sterling. I could speak about his studies at Brigham Young University, the University of Chicago Law School, and I could say many things that would make clear about him and to others his preparation for this moment in this great position.

But what I will do is share with you, the whole Senate, what I wrote about my brother in introducing him to the Judiciary Committee. I only quote a part of it:

Milan, Jr., is the eldest child of Milan Dale and Jessica Udall Smith's ten children. I am the eighth in that number and Milan's youngest brother. In my 54 years of life, Milan has been an example and force for good in our family, and, since the death of our parents, has been truly a family leader and friend to us all through times of tears and cheers.

For as far back as my memory serves, I have been witness to a concourse of people who have sought him out for his wisdom and judgment, for counsel and comfort on matters great and small. These have included my parents, myself, and all of my brothers and sisters, cousins, and kinsman from far and wide, his own six children, and of course, his legions of legal clients over many decades. Without respect of persons, he has been a wise friend and a good shepherd to all.

His academic preparations and provident life speak for themselves. But, in sum, what I can say is that he is one of the wisest men I have ever known. He has an understanding heart, a heart for judgment, he is possessed of the spirit of discernment, between good and bad, right and wrong, the just and the unjust. I cannot think of a time or a court, when a man of his quality and preparations are more sorely in need than this one, at this time, in our time.

Mr. President, I am honored to be here today to speak about my big brother. I urge his confirmation to the Ninth Circuit Court of Appeals.

That brings us to the point where it is my privilege to ask for the yeas and nays on behalf of Milan Dale Smith, Jr. I yield the floor.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Milan D. Smith, Jr., of California, to be United States Circuit Judge for the Ninth Circuit? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative bill clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN), the Senator from New Hampshire (Mr. GREGG), the Senator from Mississippi (Mr. LOTT), the Senator from Arizona (Mr. MCCAIN), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Missouri (Mr. TALENT).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Are they any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 120 Ex.]

YEAS—93

Akaka	Bennett	Bunning
Alexander	Biden	Burns
Allard	Bingaman	Burr
Allen	Bond	Byrd
Baucus	Boxer	Cantwell
Bayh	Brownback	Carper

Chafee	Hagel	Murray
Chambliss	Harkin	Nelson (FL)
Clinton	Hatch	Nelson (NE)
Coburn	Hutchinson	Obama
Coleman	Inhofe	Pryor
Collins	Inouye	Reed
Conrad	Isakson	Reid
Cornyn	Jeffords	Roberts
Craig	Johnson	Salazar
Crapo	Kennedy	Sarbanes
Dayton	Kerry	Schumer
DeMint	Kohl	Sessions
DeWine	Kyl	Shelby
Dodd	Landrieu	Smith
Dole	Lautenberg	Snowe
Domenici	Leahy	Specter
Dorgan	Levin	Stabenow
Durbin	Lieberman	Stevens
Ensign	Lincoln	Sununu
Enzi	Lugar	Thomas
Feingold	Martinez	Thune
Feinstein	McConnell	Vitter
Frist	Menendez	Voinovich
Graham	Mikulski	Warner
Grassley	Murkowski	Wyden

NOT VOTING—7

Cochran	McCain	Talent
Gregg	Rockefeller	
Lott	Santorum	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate shall resume legislative session.

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2611, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2611) to provide for comprehensive immigration reform and for other purposes.

Pending:

CORNYN (for ISAKSON) amendment No. 3961, to prohibit the granting of legal status, or adjustment of current status, to any individual who enters or entered the United States in violation of Federal law under the border security measures authorized unless title I and section 233 are fully completed and fully operational.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, may I remind my colleagues, as announced yesterday, that the majority leader has authorized strict enforcement of the 15-minute voting rule and 5-minute extra and on stacked votes 10 and 5. We have a great many amendments and a lot of work to do to finish this bill before Memorial Day. We are about to proceed to the amendment offered by the Senator from Georgia, Mr. ISAKSON. Senator CRAIG has asked specially for 5 minutes to talk about the President's speech. We are not going to be able to accommodate discussions beyond the Isakson amendment, except for Senator CRAIG. After the 5 minutes, Senator ISAKSON will be recognized to make the opening argument on his amendment. We do not have a great deal of time under the

order to proceed with the two votes at noon. So let us use the time as expeditiously as we can.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we resumed yesterday what I think most of us believe is a historic debate in consideration of comprehensive immigration reform. This body debated immigration reform and brought forth a resolution in 1986. We did it once again in 1996. And here it is, 2006, and we are back, frustrated in some ways, angered in others, that there may be as many as 12 million illegal immigrants in our country, illegal foreign nationals who came in a relatively uncontrolled or unenforced fashion.

Last night I heard, and America heard, our President deliver what I believe was one of the most comprehensive approaches toward dealing with this issue. First and foremost, he recognized what the Congress did not recognize in 1986, nor did we recognize it in 1996. No matter how comprehensive our reform is, it will not work, unless this Nation controls and secures its borders and, therefore, devises programs that allow a reasonable number of foreign nationals to come into our economy on an annual basis to help us grow and help us continue to be the great immigrant Nation we are. Then the President, beyond his approach toward securing the border, talked about a variety of other approaches.

Let me talk only about border security. A good number of us began to work with the White House several months ago, and our message was quite simple. We didn't believe the Congress could fashion comprehensive immigration reform, that the politics of the day were too contentious, unless we had convinced the American people, first and foremost, that primarily our southern border would become more secure, that the flood of humanity coming across it on an hourly basis was stopped, and that the comprehensive bill that would then be fashioned would recognize the needs of our economy and bring workers to our economy in a reasonable fashion. The President gets it. His speech last night said it. While the work the Judiciary Committee and the Senate have done do beef up border control, you don't get there overnight. You don't invest billions of dollars and stand up a virtual wall, and a real wall in some places, in a 24-hour period. The President, understanding that, is now engaging the four border States along our southwestern border, with the complement of the National Guard, not to enforce but to facilitate the Border Patrol, which is legally trained and deputized to do what is necessary in the area of border enforcement.

Securing our southwestern border is critical. One AP reporter asked me last night: Isn't this political?

I said: It is not political at all. The President simply gets it. If this Senate doesn't get it, shame on us. We can't write a bill in any fashion, Democratic